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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,191	10/21/2003	Burkhard Schmeling	101215-155	3660

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EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/690,191	SCHMELING, BURKHARD	
	Examiner	Art Unit	
	Ghassem Alie	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/508,317.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/21/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Preliminary Amendment

1. The preliminary amendment filed on 1/21/03 is acknowledged.

Information Disclosure Statement

2. The information disclosure statement submitted on 10/21/2003 has been received.

The references listed therein have been considered.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 9/10/1997. The foreign priority copy was provided in the parent application with serial No. 09/508,317 and now Patent No. 6,670,003.

It is noted that applicant indicates that the parent application with the serial No. 09/508,317 was filed on April 4, 2003. However, this filing date is not consistent with PTO record, which indicates April 14, 2000 as the filing date of the application No. 09/508,317.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a tire including a beading and a stabilizing device for clamping the wheel-rim beading as set forth in claim 22 (misnumbered as the number 4) must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

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5. The specification is objected to under 37 CFR 1.71 because it fails to teach how a stabilizing device clamps the wheel-rim beating of a tire. It is not clear how the stabilizing device clamps the wheel-rim of beading. See page 11, lines 1-13.

6. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-4 have been renumbered respectively 19, 20, 21, and 22.

Claim Objections

7. Claim 19 is objected to because of the following informalities: "cutting the rotating" should read --cutting the rotating tire--. See claim 19, line 8. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 22, the disclosure fails to teach how a stabilizing device clamps the wheel-rim beating of a tire. It is not clear how the stabilizing device clamps the wheel-

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rim of beading. It is also not clear where the stabilizing device is located. It is also not clear how the beading of the tire is claimed and the tire is being rotated at the same time.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 19 and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Tupper et al. (4,450,738), hereinafter Tupper. Regarding claim 19, Tupper teaches a device for cutting a tire into rings including a tire 100 held in a tire guide 182 and the tire 100 has a treaded portion and side walls. Tupper also teaches a drive roller 86 which presses against the treaded portion of the tire 100 in one position. Tupper also teaches that the drive roller 86 causing a bulge radially toward an inside of the tire and rotating the tire 100. The drive roller 86 presses against the threading portion of the tire for gripping and rotating the tire without slipping. The drive roller's pressure is inherently sufficient enough to cause a bulge directed towards the inside of the tire 100. In addition, the pressure roller is capable to bulge the tire, in different sizes, inwardly toward inside of the tire. Furthermore, applying a sufficient pressure against the treated portion of the tire to bulge the tire and create a better traction or grip of the tire by the drive roller is well known in the art such as taught by Leuillon (2,230,302). Tupper also teaches at least one moveable blade 136 arranged on a shaft 126 outside of an opening in the tire and the blade 136 is guidable into the inside of the tire 100 through the opening and further guidable towards any position on the inside of the bugle for

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cutting the rotating tire 100. See Figs. 1-7 and col. 2, lines 34-68 and col. 3, lines 1-67 in Tupper. Tupper does not teach that the drive roll is movably positioned against the treaded portion of tire. Tupper teaches that the tire has a lifting mechanism which lifts the tire toward the drive roller. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lifting mechanism of the tire for the drive roll and keep the tire stationary, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Regarding claim 22, as best understood, Tupper teaches everything noted above including a stabilizing device 172, 186 for stabilizing tire beading and clamping the wheel-rim beading of the tire 100. The bead support arm 172 and the cap 186 stabilize the bead of the tire and the wheel-rim beading is clamped between the arm 172, cap 186, and the drive roller 86 during the cutting operation. See Figs. 1-3 and col. 1, lines 35-55 and col. 4, lines 3-68 in Tupper.

12. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tupper in view of Shioya et al. (4,899,630), hereinafter Shioya, or Barclay (4,682,522). Regarding claims 20 and 21, Tupper teaches everything noted above except that the shaft includes a plurality of blades having adjustable distance from each other and wherein the distance of the blades is chosen according to the number of tire rings desired. However, the use of a plurality of adjustable blades to create a chosen number of strips or rings of a material is well known in the art such as taught by Shioya and Barclay. Shioya teaches a plurality of blades 4 having adjustable distance from each other and wherein the distance of the blades 4 is chosen according to the desired number of sheet strips. Figs. 1-3 and col. 1,

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lines 20-60 and col. 4, lines 1-68. Braclay also teaches a plurality of blades 15, 17, 31 having adjustable distance from each other and wherein the distance of the blades 15, 17, 31 is chosen according to the desired number of tire rings strips. See Figs. 1-10 and col. 5 and 6, lines 1-60 in Braclay. It would have been obvious to a person of ordinary skill in the art to provide Tupper's cutting device with a plurality of adjustable blades as taught by Shioya or Braclay in order to produce a plurality of tire rings with each cutting action.

Claims 1-18 are canceled.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leguillon (2,230,302) teaches a bulge directed inwardly inside a tire and created by the pressure of the drive roller against the treaded portion of the tire. See Fig. 2 in Leguillon. Anderson (1,145,654) also teaches a portion of a material being bulged before the cutting operation. Leguillon also teaches a tire that has a beading which is clamped by a stabilizing devise.

Pederson (5,783,035), Wilson et al. (1,628,817), Gramater (4,770,077), and Burch (4,873,759) teach a tire that has a beading which is clamped by a stabilizing device.

Queen (5,601,004) teaches a tire cutting device having a plurality of blades and a pressure roller moving towards the tire.

Hall et al. (4,709,772), Lederbauer (6,257,113), and Tupper (4,012,973) teach a tire cutting device having a movable blade inside the tire opening.

Brewer (5,590,838), Harb (4,072,072), Branick (3,460,419), Snow (3,701,296), Chen

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(5,894,997), and Jolliffe et al. (5,054,351) teach a tire cutting device having a pressure roller and cutting blades.

Dom (5,235,888) and Pruett (5,443,567) teach a tire cutting device having a tire stabilizer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

GA/ga

May 21, 2004


Allan N. Shoap
Supervisory Patent Examiner
Group 3700